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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Patent Examining Operations**

Applicant(s): Clive Patience

Serial No.: 10/055,364 Art Unit: 1648

Filed: 23 January 2002 Examiner: Foley, S.

TITLE: GAMMA HERPES VIRUS DNA AND METHODS OF USE

Docket No.: 61750-379

27 January 2004

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Transmittal**

Sir:

Applicant herewith submits the following:

1. Response to PTO Correspondence;
2. Postage-paid, Self-addressed postcard.

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*FEB 03 2004*  
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No fees are believed due in making this response. The Commissioner is authorized to charge payment of any fees required in filing this response or credit any overpayment to Deposit Account No. 03-0678.

Serial No.: 10/055,364

Filed: 23 January 2002

**FIRST CLASS CERTIFICATE**

I hereby certify that this correspondence is being deposited today with the U.S. Postal Service as First Class Mail in an envelope addressed to:

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

*Alan J. Grant*  
\_\_\_\_\_  
Alan J. Grant, Esq.

*1/27/04*  
\_\_\_\_\_  
Date

Respectfully submitted,

*Alan J. Grant*

Alan J. Grant, Esq.  
Reg. No. 33,389

CARELLA, BYRNE BAIN, GILFILLAN,  
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*FEB 03 2004*

*TECH CENTER 1600/2900*

Sir:

In response to the Communication from the Examiner, dated 20 October 2003, regarding alleged non-responsiveness of Applicant's prior election of invention, filed on 24 September 2003, Applicant responds by asserting that the response was adequate and that, in a telephonic interview with the Examiner, the Examiner noted that the election of invention was not properly entered into the record by the Patent Office and that therefore the response had been deemed non-responsive. In view of this oversight by the Patent Office, the Examiner would arrange for the response to be entered, thereby making Applicant's response responsive and examination would thus commence. In view of this, Applicant believes that no further action by Applicant is required prior to receipt of a first Office Action on the merits.

No fees are believed due in making this response. The Commissioner is authorized to charge payment of any fees required in filing this response or credit any overpayment to Deposit Account No. 03-0678.

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